

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

Civil Action No. 6:15-cv-6526

SHERIELEE FIGUEROA,

Plaintiff,

vs.

KK SUB II, LLC, JOHN PHARO,
AREA MANAGER, and JENNIFER
HAMMELL, DISTRICT MANAGER,

Defendants.

**PLAINTIFF'S
REQUESTED *VOIR
DIRE* QUESTIONS**

Plaintiff Sherielee Figueroa, through her counsel, pursuant to the Pretrial Order, respectfully submits the following questions be posed to prospective jurors during *voir dire* examination:

A. Personal/Employment Information

1. Where do you work?
2. What is your primary work responsibility?
3. Where does your spouse/significant other work?
4. Do you or anyone close to you work for Subway or any Subway affiliated entity?
5. What is your primary source of news? Specifically, what television channels and/or websites do you rely on?

B. General Work Experiences

1. Have you ever managed or supervised employees?
 - a. If yes, how many people?
 - b. Have you ever had to fire an employee? Tell us about that.
 - c. What was the hardest part of managing or supervising others?

2. Have you ever been self-employed?
 - a. If yes, did you have employees?
 - b. How familiar are you with federal and state employment laws?
3. Who here has knowledge - either through research, training, or personal experience - of federal and state employment law?
 - a. How did that come about?
4. Have you or anyone close to you ever been accused of any form of discrimination or retaliation?
 - a. If yes, tell me more.
5. Do you have any education, training, or experience in human resources, business management, or other issues regarding age, race, gender, or sexual harassment?
 - a. If yes, tell me more.
6. What does the term "retaliation" in the employment context mean to you?
7. Are you familiar with a situation – either at your workplace or somewhere else – in which someone made claims of discrimination or retaliation but you do not believe the allegations were true?
 - a. Tell us about that.
 - b. Did you believe that situation had the right result?

C. Experiences with Legal System

1. Have you or anyone close to you ever been sued? If so, please give details.
 - a. Were you/they satisfied with the outcome?
 - b. Do you/they feel that the outcome was fair? Why or why not?

2. Do you or anyone close to you have training or experience in the legal field?
 - a. Please tell us about that.
3. Who here has a certain distrust of lawyers in general?
 - a. Tell us why.
4. Have any of you ever sat as a juror before? If so, how many times and when?
 - a. Please give details of each occasion, such as whether it was a civil or criminal trial and what the trial was about.
 - b. What did you think about your experience as a juror?
 - i. What did you like best?
 - ii. What did you like least?
 - c. Is there anything about that experience that you think might influence the way you think about this case?
5. Do you think that there was anything that could have been done to improve your experience? (by the court, lawyer, others?)

D. Burden of Proof

1. This is a civil trial - not a criminal trial. The standard of proof in a civil trial is lower than for a criminal trial. The Plaintiff has the burden of proving her claim by a preponderance of the evidence. That just means 'more likely than not.' If she does this, then she can recover her damages. The Plaintiff does not have to prove her claims beyond a reasonable doubt. That requirement does not apply in civil cases and the judge will give you those instructions before your deliberations.

- a. Some people feel that the standard for all trials should be ‘beyond a reasonable doubt.’ Who here agrees with that position?
 - b. Would that interfere with your ability to apply this lower standard of proof that is required in a civil trial?
2. At the conclusion of this trial, the Judge is going to instruct you on the law as it pertains to this case and, under our system, you must follow the law regardless of whether or not you agree with it.
 - a. Who here will have difficulty – even just a little bit – following the judge’s instructions if those instructions are in conflict with your person opinion or belief?
 - b. Assume for a minute that you are a juror in this case and during deliberations a fellow juror makes comments that are contrary to the judges instructions. By a show of hands, who here would be willing to remind the entire group what the judge said?
 - c. Does anyone here feel uncomfortable speaking up or informing the court officer about the problem?

E. General Rights

1. You have a right to hear everything the witnesses say. So if you don’t hear what a witness says, will any of you have a problem raising your hand and saying, ‘Your Honor, I’d like the witness to repeat,’ or ‘Your Honor, I can’t hear, would you ask the person to speak up?’

F. Negative Attribution

1. A lot of corporations have training and postings that encourage employees to report discrimination and retaliation in the workplace. Some employees would follow those instructions regardless of the consequences, while other people would prefer to not get involved. Who here is more inclined to not get involved unless absolutely necessary?
 - a. Tell us why.
 - b. What if a fellow employee asked you to report what you saw and heard? Would that be enough for you to get involved?

G. Closing Questions

1. Does anyone on the jury know any of the following individuals?
 - a. Sherielee Figueroa
 - b. Any current or former employee of Subway
 - c. Any of the Attorneys or employees of LaDuca Law Firm, LLP, Attorney Justin White, or any attorney from Chiacchia & Fleming, LLP
 - d. Any witness (see parties' Response to Pretrial Order)
2. Does anyone have any religious or moral convictions that would make it difficult for them to judge another person?
3. The Judge is going to instruct you on the law in this case. It is possible that you will not like or agree with the law. If that happens will you be able to put aside your personal views and follow the Judge's instructions? Does anyone think they might have trouble doing that?
4. Do each of you feel that you are the kind of person that you would want as a juror if you had your own case in court? If not, why not?

5. Is there any member of the jury who does not wish to sit on this jury for any reason whatsoever?
6. Does anyone have a reason that they would prefer not to sit, but wants to keep the reason private? Or is there any matter you would like to discuss privately that bears on your ability to serve as a juror in this case?
7. Have you heard anything during the jury-selection process that causes you concern about your ability to be fair and impartial in this case?
8. Is there anything that you would like to bring to the Court's attention that might affect your ability to be a fair and impartial juror in this case?

Dated: Rochester, New York
May 18, 2018

LaDuca Law Firm, LLP

/s/Anthony LaDuca
Anthony J. LaDuca, Esq.
Attorneys for Plaintiff *Sherielee Figueroa*
LADUCA LAW FIRM
125 State Street, Suite 400
Rochester, New York 14614
Telephone No.: (585) 454-1000
laduca@laducalawfirm.com